

Report to the Joint Chairmen on

**REPORT ON THE USAGE
OF THE COURTROOM
AT THE CENTRAL BOOKING AND
INTAKE FACILITY**

Submitted by:

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November 1, 1999

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REPORT ON THE USAGE OF THE COURTROOM AT THE CENTRAL BOOKING AND INTAKE FACILITY

I. Introduction

This report is submitted at the request of the Chairmen of the Senate Budget & Taxation Committee and the House Appropriations Committee. The following language appears in the 1999 Joint Chairmen's Report:

Review of Placing a Full-Time Judge at the Central Booking and Intake Facility: The budget committees are concerned with the costs of detaining defendants at the Central Booking and Intake Facility (CBIF) longer than is necessary. The committees are concerned that unnecessary delays may result in dismissals. The committees are also concerned with preserving the rights of detainees who must wait to plead for a jury trial. The Chief Judge of the Court of Appeals and the Chief Judge of the District Court, in consultation with the Department of Public Safety and Correctional Services, should report to the committees by November 1, 1999, on the implementation of the District Court's plan to staff the courtroom in the CBIF. The report should include:

- *a description of the implementation plan including the docket and caseload of the judge(s) assigned to CBIF;

- *an evaluation of enhancement options, including staffing the courtroom during evenings, weekends, and holidays; and

- *an analysis of the merits of staffing CBIF with a cross-designated judge and conducting bail review hearings at CBIF.

The information in this report has been compiled not only from information known to its authors and others, but more so through interviews with those persons working on a plan for the use of the courtroom at CBIF. Those who were kind enough to give their time,

comments and ideas to this report are:

The Honorable Stuart O. Simms, Secretary, Department of Public Safety & Correctional Services
Lamont W. Flanagan, Commissioner, Division of Pretrial Detention & Services, Department of Public Safety & Correctional Services
Mr. John R. Camou, Director, Pretrial Release Services Program, Department Of Public Safety & Correctional Services
John H. Lewin, Jr., Esquire, Director, Baltimore City Criminal Justice Coordinating Council
Page Croyder, Esquire, Chief Attorney, Office of the State's Attorney, CBIF
Stephen E. Harris, Esquire, Public Defender for the State of Maryland
Elizabeth L. Julian, Esquire, District Public Defender for Baltimore City
Grace Reusing, Esquire, Deputy Public Defender for Baltimore City (formerly Chief Attorney, Office of the Public Defender, CBIF)
The Honorable Ellen M. Heller, Administrative Judge, Circuit Court for Baltimore City
The Honorable David B. Mitchell, Judge-In-Charge — Criminal, Circuit Court for Baltimore City
The Honorable Albert Matricciani, Jr., Judge-In-Charge — Family Division, Circuit Court for Baltimore City
The Honorable Marcella A. Holland, Circuit Court for Baltimore City
The Honorable Keith E. Mathews, Administrative Judge, District One, District Court of Maryland
Mr. Lonnie Ferguson, Administrative Clerk, District One, District Court Of Maryland

II. Background

A. Creation of the Courtroom at CBIF

In 1991 the detention of pretrial prisoners in Baltimore City was taken over by the State. The Division of Pretrial Detention & Services was created within the Department of Public Safety & Correctional Services (DPS). As part of the legislation by which this transfer occurred, a Central Booking & Intake Facility (CBIF) was authorized. Ch. 59, 1991 Laws of Md.

The original design of CBIF did not include a courtroom. Blueprints for construction indicate another use for the space now occupied by a courtroom. Despite objections, then-Secretary of DPS directed that a courtroom be constructed. Once the courtroom was constructed, pressure was placed on the Judiciary to furnish a judge. The District Court assessed whether to begin operations out of the courtroom in the jail, and concluded that transferring judicial resources from the courthouse to the jail as proposed would not accomplish advancing cases, early dispositions, and the like. When the Quality Case Review program was developed, the District Court began hearing expedited pleas from CBIF in its

courthouse and achieving significant savings and acceleration. The Circuit Court for Baltimore City, however, under the direction of then-Administrative Judge Joseph H. H. Kaplan, elected to try to develop a docket for the CBIF courtroom for inmates to enter early pleas in felony narcotic cases. That docket was begun April 1, 1997.

B. Use of the Courtroom For the First Two Years (Spring, 1997-Spring, 1999)

The Circuit Court's felony plea docket resulted in fewer than four pleas per week and has remained at that number. To supplement the docket and give the judge more work, the circuit judge began to hear *habeas corpus* cases at CBIF as well. Finally, the docket was rounded out with circuit court violation of probation hearings from cases in which the original judge was not available to hear the case. This circuit court docket was held every Wednesday morning at the courtroom at CBIF.

The Joint Chairmen directed the Chief Judge of the District Court to study and report on the use of the courtroom by the circuit court during that first year, and on the potential for other uses by circuit or District Court judges. That report, entitled "Analysis of Cross-Designating Cases at CBIF and Placing a District Court Judge In CBIF" was filed January 1, 1998. To summarize the findings of that study relative to the circuit court pilot program: while fewer than four felonies and four probation violation cases were being disposed of each week, the circuit court benefitted from having an extra courtroom at the jail for a half day each week, and availed itself of the space by hearing primarily *habeas corpus* cases.

The Circuit Court for Baltimore City also has used the courtroom at CBIF on Friday mornings by holding paternity and non-support civil matters. These cases were originally scheduled in the courthouse, but they were moved to CBIF to use the courtroom. The docket at CBIF consists of 10-20 bail reviews.

To summarize, during the first two years, the courtroom at the jail was used as follows: Wednesday mornings by a circuit judge to process 3-4 felony narcotic pleas, 3-4 violations of probation, and 30-40 *habeas corpus* cases; and Friday mornings for about a dozen non-support and paternity bail reviews. For the most part, the Circuit Court cases heard in the CBIF courtroom were ones that had previously been heard in the courthouse.

During the same period the District Court did not hear any cases in the jail's courtroom. It did, however, continue to hear the jail's cases in its courthouses. These cases are known as "QCR" (Quality Case Review) cases or "Accelerated Pleas."¹ They result from the early screening at CBIF of certain misdemeanor cases involving inmates. The goal of the program is to reach an early plea so that the defendant can be sentenced and either released or moved into the sentenced population of the state prison system. The first QCR dockets were scheduled in the Borgerding District Court courthouse in 1996 and eventually

¹The Joint Chairmen requested a report last year on the status of the QCR project. The report, entitled "Report to the Joint Chairmen on Expansion of Quality Case Review and Impact at the Central Booking & Intake Facility" was filed on December 10, 1998.

the number of cases grew to about 40 per week. A second QCR docket was started in 1997. It is conducted weekly at the Eastside District Court Courthouse and handles about 10-15 cases per week along with other cases on the criminal docket. The QCR process by which the District Court has taken pleas in early-screened cases has resulted in a measurable savings of bed days at CBIF since 1996. The District Court has agreed to take additional cases when they can be produced by the QCR process.

C. Enhanced Use of The Courtroom and Request for This Report

Although there were quite positive results from the QCR dockets being heard on regular District Court dockets in the courthouses twice weekly, and despite the lack of expansion of circuit court uses for the courtroom in the jail, the legislature requested that DPS prepare a fiscal analysis of the potential savings that could be realized by the State if more cases were heard in the courtroom in the jail. The report that resulted, entitled "Review of Placing a Full Time Judge At The Central Booking and Intake Facility," was filed in early 1999. In the report, various docket configurations for the CBIF courtroom were proposed by DPS with corresponding projected avoidance of costs to the State of Maryland ranging up to \$21 Million annually.

Also, just prior to the beginning of the 1999 General Assembly session, extreme focus was turned to the Baltimore City criminal justice system when several defendants in serious felony cases were released because their cases were dismissed for lack of a speedy trial. Operating under a recent appellate decision (later reversed) which called for the dismissals, the Circuit Court for Baltimore City came under intense scrutiny. Justifiably, legislators wanted to understand the cause and, more importantly, wanted to see a cure for systemic problems that resulted in the dismissal of such cases. As external and internal inquiries were made, it became clear that the criminal caseload in Baltimore City was more than the existing "system" could support. The State Public Defender's Office in Baltimore City was understaffed for the demands. The State's Attorney's Office was hobbled for lack of funds. The Circuit Court's postponement policies had become too lenient and case management needed to be more efficient. To their credit, those responsible for addressing the problems came at them with a renewed dedication. They have worked together to find ways not only to get back to simply keeping up, but also to make a better system. And to their credit, the members of the legislative and executive branches of State government with the power to do so, turned their attention to assisting with necessary funding and support.

In the course of these events, the District Court offered to provide a judge to sit at the courtroom in the jail. Although still of the belief that the work suggested for that courtroom could be done more efficiently in the courthouse, Chief Judge Rasin expressed her willingness to explore what, if any, contribution putting a District Court judge in CBIF might make to the systemic changes under discussion.

III. The Development of a Plan for the Use of the Courtroom

A. The Working Group Charged with Developing a Plan for the Courtroom

As a result of the events of early 1999, the Baltimore Criminal Justice Coordinating Council (Coordinating Council) was formed. The Coordinating Council immediately carved out a working group of representatives from all of the entities that might be involved in the operation of a courtroom at the jail. Those entities are:

Circuit Court for Baltimore City (Circuit Court) primarily represented by Judge Ellen Heller, Administrative Judge (replacing Judge Joseph H. H. Kaplan) and Judge David B. Mitchell, Judge-In-Charge of Criminal Cases
District Court of Maryland - District One (District Court) primarily represented by Judge Keith Mathews, Administrative Judge
Department of Public Safety and Correctional Services (DPS) primarily represented by Commissioner Lamont Flanagan
State's Attorney for Baltimore City (SAO) primarily represented by Page Croyder, Assistant State's Attorney, and head of the State's Attorney Office CBIF section
Office of the Public Defender (OPD) primarily represented by Stephen E Harris, State Public Defender

The committee is called "The Expansion of Judicial Proceedings at Central Booking Working Group." John H. Lewin, Jr., Esquire, Director of the Coordinating Council, coordinates, attends and contributes to its meetings. It has met monthly since last Spring and it reports to the Coordinating Council which also meets monthly. While the final decision of what work is to be done by any judge in the courtroom at the jail must reside in the Judiciary, it is the Judiciary's position that the most productive and positive way to develop a use for the courtroom is through the combined efforts of the entire working group. The best solution will be the one achieved by communication for shared goals.

The plan for the use of the courtroom at CBIF is, of course, the focus of this working group. The plan is being developed through the discussion of various ideas presented by and to the members. Listed below are the ideas that have been the chief focus of the group.

District Court Bail Review Hearings
Violation of Probation Hearings
Preliminary Hearings / Arraignments
More Non-support/Paternity Cases
More Quality Case Review (QCR)
More *Habeas Corpus* Cases

B. Present Use of the Courtroom

The ideas listed above are under discussion. In the meantime, the use of the courtroom in the jail was enhanced almost immediately in the Spring of 1999 when the District Court agreed to make a judge available. The present schedule adds a third morning a week.

In March, 1999, before the District Court judge began sitting at CBIF, the weekly schedule for the courtroom at CBIF was as follows:

	Monday	Tuesday	Wednesday	Thursday	Friday
Morning	None	None	3-4 Felony Pleas 3-4 VOP 40 <i>Habeas Corpus</i>	None	10-20 Paternity/ Non-support Bail Reviews
Afternoon	None	None	None	None	None

Since March/April, 1999, the schedule has been as follows:

	Monday	Tuesday	Wednesday	Thursday	Friday
Morning	None	40-60 QCR Cases 40 <i>Habeas Corpus</i>	3-4 Felony Pleas 3-4 VOP 40 <i>Habeas Corpus</i>	None	10-20 Paternity/ Nonsupport Bail Reviews
Afternoon	None	None	None	None	None

1. Current Tuesday Docket

The District Court judge sits at CBIF on Tuesdays. That judge handles 40-60 QCR cases which, until they were transferred to the courtroom at CBIF, had been heard in a courtroom at the District Court courthouse. These cases are ones in which a plea has been agreed upon between the prosecutor and the defendant (represented by the Public Defender) within days of the defendant's incarceration. When the parties agree, the case is scheduled on the next District Court docket handling QCR cases. This permits the case to be disposed of in a week or so of arrest, which is earlier than its scheduled trial date of about four weeks from arrest. Defendants in these QCR cases are released after their case is heard or, in many cases, moved into the sentenced population of the DPS. Scheduling these cases at the CBIF courtroom does not add any cases to the District Court weekly docket or moved them any more quickly; it simply changes their location.

Table 1 on the next page illustrates the District Court QCR docket now heard at CBIF. The docket accommodates an average of 29 inmates with 50 cases. About 80% of the cases are disposed of on schedule so that 20-30 inmates every week are released from the jail or moved into the sentenced population earlier than they would have been without QCR.

Table 1
District Court Central Booking Summary
QCR Docket

<u>Date</u>	<u>Total # of Defendants</u>	<u>Total # of Cases</u>	<u>Cases Disposed of by Plea or Nolle Prosequi</u>	<u>Cases Not Disposed of Because Defendant Bailed Out</u>	<u>Cases Not Disposed of Because Case Was Postponed</u>	<u>Cases Not Disposed of Because Plea Was Rejected in Court</u>
9/28/99	33	51	36	6	1	8
9/21/99	11	15	14	0	1	0
9/14/99	25	39	31	3	5	0
9/7/99	21	43	40	0	3	0
8/31/99	22	30	30	0	0	0
8/24/99	27	43	32	4	3	4
8/17/99	41	73	65	0	0	8
8/10/99	36	62	42	3	5	12
8/3/99	28	44	33	2	5	4
7/27/99	30	50	37	0	5	8
7/20/99	21	41	36	4	0	1
7/13/99	20	28	24	1	0	3
7/6/99	20	35	28	0	5	2
6/29/99	45	72	47	0	23 *	2
6/22/99	40	66	60	1	4	1
6/15/99	27	55	44	2	5	4
6/8/99	26	55	50	1	2	2
6/1/99	27	56	46	0	9	1
5/25/99	26	50	44	5	1	0
Average	29	48	39	2	4	3
Average	29	807.7895	29.22222	41	5%	
Total	526	908	739	32	77	60
Percentages		100%	81%	4%	8%	7%

* denotes missing files.

On Tuesdays, the District Court judge is also cross designated as a circuit court judge, and handles about 40 circuit court *habeas corpus* cases. These are civil cases filed by defendants whose bail was set by a District Court commissioner, and whose bail has been already reviewed once by a District Court judge. The defendant files the *habeas corpus* to get a third look at the bail.

In these cases, inmates (usually representing themselves) file petitions for writ of *habeas corpus* by filling them out in CBIF. The petitions are sent to the circuit court clerk who creates a new civil case for each one. While the case is pending, Pretrial Release Services (part of the DPS's Division of Pretrial Detention and Services) conducts an investigation in each case in order to be able to make a recommendation to the judge at the *habeas* hearing as to whether the bail should be lowered. This investigation would supplement the investigation that would have done for that defendant at the initial arrest stage and at the bail review stage.

In a *habeas corpus* case, the defendant actually requests a reconsideration of the terms of bail by challenging the legality of the detention. Although the rules permit these *habeas corpus* petitions to be denied without a hearing, hearings are held in all *habeas* cases filed in CBIF. Those hearings make up about half of the District Judge's docket on Tuesday, and much of the Circuit judge's docket on Wednesday. About one third of the defendants on the Tuesday *habeas corpus* docket have their bails reduced. An average of two defendants per week are released on their own recognizance without having to post bail.

On the next page, *Table 2* illustrates the number and disposition of the *habeas corpus* cases heard by the District Court judge sitting as a circuit court judge on Tuesdays.

Table 2
District Court Central Booking Summary
Habeas Corpus Hearings

<u>Date</u>	<u>Total Cases</u>	<u>Cases Not Resolved</u>	<u>Bails Not Lowered</u>	<u>Bails Lowered</u>	<u>Defendants of PR ¹</u>
9/28/99	40	2	18	14	6
9/21/99	42	4	22	14	2
9/14/99	44	14	14	14	2
9/7/99	35	3	19	12	1
8/31/99	41	11	20	10	0
8/24/99	34	14	10	8	2
8/17/99	35	11	16	7	1
8/10/99	50	9	23	16	2
8/3/99	52	8	21	19	4
7/27/99	46	8	17	18	3
7/20/99	40	10	17	10	3
7/13/99	50	8	24	15	3
7/6/99	33	6	12	13	2
6/29/99	39	5	13	20	1
6/22/99	47	7	26	12	2
6/15/99	51	19	17	14	1
6/8/99	27	5	12	5	5
6/1/99	33	7	17	6	3
5/25/99	49	12	21	12	4
Average	41	9	18	13	2
Total	788	163	339	239	47

¹ PR means that the defendant was released on personal recognizance instead of having to post any bail.

The District judge who sits at CBIF on Tuesdays spends just over two and one-half hours actually handling the QCR and *habeas* cases. Court starts between 9 and 10 a.m. and concludes between noon and 1 p.m. and generally includes a short break between dockets. The District Court has rotated the assignment of judges to the CBIF courtroom. In order to provide a judge for the CBIF courtroom, a regular courtroom is left dark and cases that would be heard at the courtroom in the courthouse are delayed. When possible, the District Court may employ a retired judge to sit in the courthouse to prevent having to close a courtroom for the judge at CBIF. See Table 3 below.

Table 3:

**District Court
Central Booking Summary
Bench Times at Central Booking**

<u>Date</u>	<u>Judge</u>	<u>Court Convened</u>	<u>Court Adjourned</u>	<u>Minutes on Habeas Corpus</u>	<u>Minutes on QCR</u>
9/28/99	Holt-Stone	9:45 AM	2:15 PM	115	135
9/21/99	Holt-Stone	10:10 AM	1:30 PM	75	75
9/14/99	Oshrine	9:40 AM	12:20 PM	80	60
9/7/99	Holt-Stone	9:50 AM	1:00 PM	70	88
	Hargrove				
8/31/99	Johnson	9:58 AM	1:00 PM	88	85
8/24/99	Bass	9:48 AM	12:45 PM	50	75
8/17/99	Bass	9:55 AM	1:00 PM	45	100
8/10/99	Bass	9:51 AM	1:05 PM	109	104
8/3/99	Oshrine	9:35 AM	12:50 PM	103	70
7/27/99	Oshrine	9:45 AM	12:15 PM	85	75
7/20/99	Oshrine	9:00 AM	11:20 AM	70	60
7/13/99	Oshrine	9:35 AM	12:20 PM	104	50
7/6/99	Oshrine	9:33 AM	12:00 PM	75	60
6/29/99	Oshrine	9:40 AM	12:55 PM	77	115
6/22/99	Oshrine	9:45 AM	12:50 PM	100	110
6/15/99	Oshrine	9:50 AM	1:00 PM	66	90
6/8/99	Oshrine	9:45 AM	1:00 PM	45	120
6/1/99	Oshrine	9:40 AM	12:30 PM	67	90
5/25/99	Oshrine	9:40 AM	12:45 PM	95	105
5/18/99	Oshrine	9:35 AM	1:00 PM	92	90
5/11/99	Oshrine	N/A	12:05 PM	N/A	40
5/4/99	Mathews	N/A	12:30 PM	N/A	60
4/27/99	Mathews	N/A	12:40 PM	N/A	65
4/20/99	Mathews	N/A	12:00 PM	N/A	30
4/13/99	Mathews	N/A	12:30 PM	N/A	60
4/6/99	Mathews	N/A	12:40 PM	N/A	85
Average				81	81

2. Current Wednesday Docket

On Wednesday, the Circuit Court provides a judge to preside over the docket described earlier in this report. That docket, steady for several years, is made up of several felony pleas, several VOP cases, and about 45 *habeas corpus* cases. This docket lasts about as long as the Tuesday docket. According to Judge David Mitchell, “[o]nly a small number of guilty pleas and VOP’s are scheduled on those dates and of those scheduled, fewer than half actually proceed to termination. Problems such as notification of witnesses, production of defendants, and a change of mind by a defendant who no longer wants to accept the prosecutor’s offer are among the reasons why these cases do not proceed.”

3. Current Friday Docket

The Circuit Court Family Division conducts bail reviews in paternity and non-support cases in the courtroom at CBIF on Friday. The docket is not a new docket, but the location of the hearings has changed from the courthouse to the jail.

Roughly a dozen of these bail reviews are conducted each Friday. These hearings are more time-consuming than criminal bail reviews because more information is needed from more sources. The docket begins at about 9:45 to 10:00 a.m. and ends between 11 and 11:30 a.m.

The Circuit Court first developed this docket before the District Court judge was assigned to CBIF. It was developed at the suggestion of DPS on the understanding that there were a number of inmates being held unnecessarily in paternity and non-support cases. According to the Circuit Court, the number of inmates whose cases could result in an earlier release has not increased by transferring the docket to CBIF. In fact, there has been a certain amount of frustration on the part of the Circuit Court in taking a judge from a courtroom where other matters could be addressed in the same morning.

C. Present Ideas Being Explored for the Use of the Courtroom

As stated above, the Baltimore City Criminal Justice Coordinating Council has a working group devoted to finding a role for a judge² in the courtroom at CBIF. Various topics have been raised and addressed. Listed here are those still “on the table.”

1. District Court Bail Review Hearings

When a person is arrested in Baltimore City, that person is taken to CBIF for processing. Once processed and charged, the arrestee is taken before a District Court commissioner who is a judicial officer on duty round the clock in CBIF. The Commissioner advises the arrestee of the charges and various rights, and sets the terms of release. About half of the arrestees are released

²When “judge” is used in this report, it incorporates the concept of cross-designation. Circuit judges can sit in District Court proceedings and *vice versa*, as long as they are officially cross-designated by the Chief Judge of the Court of Appeals. The working group works under the assumption that any trial judge will be able to preside over any proceeding in the CBIF courtroom.

back to the street at this stage, and are never committed to CBIF. Those who are committed are required by law to be taken before a judge at the next session of court to have the commissioner's bail decision reviewed or reconsidered. This proceeding is a bail review. Presently, in Baltimore City the daily average number of these bail reviews is between 125 and 150 and they are conducted by the District Court.

Before CBIF was built, defendants were brought to the courthouse and bail reviews were conducted in courtrooms, face-to-face with the judge. When CBIF was built, a videoconferencing system was installed and linked to the District Court so that bail reviews could be conducted without DPS having to bear the expense of bringing defendants to the courthouse. At present, there are a certain number of rooms in the jail where defendants are gathered in late morning and early afternoon. The videoconferencing equipment in each room is linked to videoconferencing equipment in the same number of District Court courtrooms. The Circuit Court is also linked to the system so that video connections may be made to either court. The number of connections is, however, finite and there are a number of times when one court cannot use the video connection until the other has completed its connection.

While the videoconferencing technology has enabled DPS to save transportation, security and personnel costs, it has been less than satisfactory. Technical and auditory problems frequently inhibit the impersonal exchange. Large numbers of defendants are seen over television monitors in one sitting, which can be very draining on all involved. Defense attorneys are unable to communicate with their clients privately during the hearings because the client is in the jail and the attorney is in the courtroom. With the recent advent of the Public Defender's representation of defendants at bail review hearings, the problems with the existing system are even more acute.

The working group has discussed a plan for a judge to sit in the courtroom at CBIF to handle bail review hearings. The idea of handling bail reviews at the jail is particularly attractive to most members of the working group because it can start small and expand. A judge could handle part of the day's bail reviews while there handling other work, and part of the bail reviews could remain on video.³ In the CBIF courtroom, the judge would be face-to-face with the defendants, and the defendants would be in the same room with their attorneys. The docket would not compete with existing District Court caseloads.⁴

If the State's Attorney's Office were able to provide an attorney to staff bail reviews (which it should be able to do once its CBIF staff is no longer handling the new SAO charging project), and if bail reviews were held in the courtroom at the jail, all necessary parties would be present if the possibility of a plea or a *nolle prosequi* (prosecutor's decision to drop the case) existed, thus allowing cases to be disposed of very early in the process.

³ This presumes that improved videoconferencing equipment replaces the present system.

⁴ Under the present system, bail reviews are usually sandwiched in between other dockets, and it is nearly impossible to predict where a case will be heard. This makes it difficult for attorneys and any member of the public or person involved in the case to attend.

Of course, there may be logistical issues for all of the entities involved. There will be issues of staffing and scheduling for each of the entities involved. The potential of holding bail reviews at the courtroom at CBIF has not been explored further because of the logistical problems it would present to DPS. Commissioner Flanagan advised that CBIF was not designed for bail reviews to be conducted in the courtroom, and that moving them to the courtroom would defeat the videoconferencing intended in the original design. He stated that transporting inmates to the courtroom presented serious safety and staffing concerns, and that the prisoners could not be accommodated in the courtroom area. The apparent serious issues presented to DPS by doing bail reviews in the courtroom made the use of the courtroom for that purpose unlikely until just recently. Judge Rasin has just been informed by John Lewin that Commissioner Flanagan many now be ready to consider this plan and that, indeed, the barriers that existed may not now exist. This is welcomed news and no doubt could bring movement on this plan quite soon.

2. Violation of Probation Hearings (VOP's)

The working group has discussed the possibility of having VOP's handled in the CBIF courtroom, but the main work on that idea has been in a separate working group devoted solely to the idea of revising the way VOP cases are heard whether at CBIF or in the courthouse. The same entities are represented but, in some cases, by other persons.

Several years ago a study was made of the population of CBIF which showed that a large number of inmates at CBIF are being held on VOP charges. Coincidental with the study, a VOP docket was developing at CBIF for the circuit judge assigned there in order to round out the weekly half-day docket. VOP charges in cases of judges who no longer sat regularly with the Circuit Court were set in CBIF. The docket consisted of 3-4 cases weekly.

By court rule and policy, judges who place a defendant on probation are to be assigned to hear the VOP unless it would be impracticable. The VOP working group is giving thought, however, to starting a process by which a judge could "waive" his or her hearing in a VOP case. Cases given up by the sentencing judge in that fashion could be consolidated on one VOP docket. The working group wants to explore whether adopting this new procedure might reduce the time it takes to get Circuit Court VOP's to trial.

The plan being considered for CBIF would be staffed by a judge, one or two probation agents (not the defendant's actual agent), a Public Defender but probably not a prosecutor. The purpose of the docket would be to accelerate VOP hearings for inmates held on circuit court violations. Apparently such cases may now take several months to reach.

In the process of working on a VOP docket plan, that working group has raised some important questions that it is now addressing. First, there is a very real question whether under the present Maryland Rules, a judge may elect not to hear VOP's although he or she is available to do so. The rule requiring judges to hear their own VOP's when practicable is consistent with a strong policy of assigning a case to one judge for all purposes and having probationers know that if they violate probation, they will have to face their sentencing judge.

Second, the Circuit Court has asked that more complete figures be obtained to see

whether developing a special VOP docket really would make a difference. The figures now available are several years old, and they do not indicate how many of the inmates who are waiting for VOP hearings are Circuit Court defendants, how many of them are in CBIF for other charges so that even if their VOP case were held early, they would still be detained, etc.

Third, it has not yet been determined whether the docket would be limited to inmate cases only. As with other CBIF proposed dockets, there are problems for the court if it must segregate inmate from non-inmate cases. There are problems for DPS and the courts if people will be coming “off the street” to use the courtroom.

Although this plan is still “on the drawing board,” it would require the involvement of a judge, defense attorney and several probation agents. DPS states that additional staffing would be required in the jail in order to permit such a docket to be held at the CBIF courtroom.

In the meantime, the Circuit Court intends to use the CBIF courtroom on Wednesday afternoons to hear and reduce an unusually large number of VOP’s from one judge’s caseload.

3. Preliminary Hearings / Arraignments

In felony cases, a defendant is entitled to a preliminary hearing which is held in the District Court. In a preliminary hearing, a judge does not decide guilt but rather simply determines whether there is enough evidence to justify the charges. Cases may be, but are rarely, dismissed at a preliminary hearing. A preliminary hearing requires the presence of a judge, defendant, defense attorney, prosecutor and at least one witness. Preliminary hearings are held in District Court within 30 days of arrest. Preliminary hearings are conducted for defendants who are released after arrest as well as those who remain at CBIF.

If the charges are not dismissed at the preliminary hearing, the case will go to Circuit Court for an arraignment. At the arraignment, a defendant is advised of the charges and of various rights, and enters a plea which is usually “not guilty.”

At present, the time between preliminary hearing and arraignment can be as long as six weeks. The suggestions now being considered by the working group involve various configurations, including:

- < having the District Court judge conduct the preliminary hearing
 - < in the courthouse
 - < in the jail
- < having the District Court judge set the date for the arraignment in Circuit Court immediately after the preliminary hearing for arraignment to take place
 - < in the courthouse
 - < in the jail
- < having the District Court judge “become” a Circuit Court judge just after the preliminary hearing and conducting

the arraignment
< both in the courthouse
< both in the jail

These ideas are in the very early stages and require a lot of questions to be addressed. Because this plan could eliminate a substantial delay in case processing, it is considered by all participants to be worthy of study. At this very early stage, however, the support appears to be more for the change in the time and process, and not for the location. It appears the best success would occur if the cases were not set in CBIF. For the District Court, it would be quite difficult to know when scheduling a preliminary hearing whether the defendant would make bail and so preliminary hearings for non-inmates would have to be set at CBIF, along with those for inmates. That would result zero savings in those cases. In fact, it would add costs because DPS would have to staff up for the cases and handle more of the public.

For the District Court and Circuit Court, there are concerns in holding proceedings which require attendance and participation of various parties and witnesses. This is a problem not only as it relates to getting into the jail and into the courtroom, but also in scheduling. Defense attorneys and police officers who would be part of these cases, often have more than one case in a courthouse on any given morning or afternoon. If they must be in CBIF for a preliminary hearing or arraignment, they are not able to then quickly handle one or two matters in the same location. This would probably generate increased postponements.

This idea holds promise for the system, but may not prove to be best employed in the CBIF courtroom.

4. More QCR and, Perhaps, More *Habeas*

As shown in *Table 1* above, approximately 41 misdemeanor cases are disposed of early by way of the Tuesday QCR docket. That docket now is made up of cases in which the prosecutor has made a plea offer which the defendant, through counsel, has accepted. In the past, expansion of that docket has occurred by adding new kinds of cases. The Public Defender and State's Attorney acknowledge that perhaps more cases could be added to the QCR docket by the Public Defender after it has been determined that a client who had not previously been part of the QCR process would like to have plea negotiations. Expansion might also occur by including cases which were originally in the QCR process but which fell out because the two sides could not agree on a precise sentence. The case might be taken before the QCR judge who would determine the sentence.

This or a similar expansion of QCR would be simple to "pilot" because the process already produces cases for the courtroom at the jail. As stated above, the District Court judge has been handling its QCR docket at the jail on Tuesdays since March, 1999.

The QCR docket at CBIF could also be expanded by moving the Thursday QCR cases from the courthouse to the jail. Currently there are only 10-15 such cases and a new docket cannot be justified for so few. Judge Mathews suggested moving those cases to CBIF and scheduling more *habeas corpus* cases on Thursday at the same time, but DPS is unable to

provide staff to generate the additional *habeas* docket. Questions remain as well whether there are enough *habeas* cases to fill up another docket and, more importantly, whether it is really a good idea to keep feeding more and more *habeas* cases into the courtroom when there are most likely far more efficient ways of dealing with the issues which generate the *habeas* docket in the first place. Moving the existing QCR docket to CBIF would, of course, result in nothing new except that the courtroom would be used.

Discussion has also occurred as to whether there may be merit to moving the "Part 28" *habeas corpus* docket to the CBIF courtroom. This is a docket of *habeas corpus* petitions that have been filed in serious felony cases. In these cases, a State's Attorney often attends as does the Public Defender or private defense counsel. Presently these cases are heard over the Circuit Court - CBIF video system (not related to the CBIF courtroom). If these cases were transferred to the jail courtroom, DPS states additional costs would be incurred and staffing would be needed to transport the defendants to the CBIF courtroom from their cells. There would be conflicts in the schedules of the prosecutors and defense attorneys who would have to be at CBIF and who, therefore, could effectively conduct no other court business while at the jail. The judge who went to the jail to preside over this docket would not be able to handle other court matters during that half-day.

IV. Conclusion

Many people have worked tirelessly over the past months to streamline the processing of criminal cases in Baltimore City. Many of the ideas developed rapidly into improvements. Among those that can be counted as successes is the new role of the State's Attorney's in the charging process. Programs such as the Public Defender's representation of defendants at District Court bail reviews are in progress. Both the parties and the system have benefitted from the intense work toward the shared goal of improving the criminal justice system in Baltimore City.

Hard work and progress are not always accompanied by rapid results or the results that were anticipated. While some might be discouraged that the efforts of the working group have yet to produce a star to showcase, the work has been well worth it and not one of the members is willing to stop working on the task. There are potential uses for the courtroom being explored and, to date, very few options have been ruled out altogether. Additionally, those involved in the process have come to some important conclusions both in general and related to the use of the courtroom at CBIF. For one, it seems evident to all of the members that there are limitations to the CBIF courtroom and it is best to accept them. As Judge David B. Mitchell stated:

The courtroom facility at Central Booking is of limited utility for the judiciary of this community. We can never lose sight of the fact that this courtroom is located within the bowels of a jail that does not, and can never, afford total access to the public. Persons who are confined to the institutions move under guard to the courtroom from secure locations in the facility. The room is small and cannot accommodate either the general public or defendants who are on bail but who would

be summonsed to the courtroom. This facility can only realistically have a use for working within the confines of a restricted purpose such as inmates or detention and penal institutions.

There are other “givens.” DPS has noted that with every use of the courtroom comes additional expense to DPS and the need to hire more staff. Inmates who are brought to the courtroom must be handcuffed, placed in leg irons, and guarded going to and from the courtroom. There are inadequate “staging areas” for bringing inmates before a judge. Even just preparing more of the cases now being heard at CBIF will take staff that DPS does not have.

Discovering and acknowledging the realities of the use of the courtroom is a necessary step towards finding an appropriate, meaningful use for it, and not just a “make work” use.

There were certain concerns of the Joint Chairmen in the language mandating this report. The Joint Chairmen should know that at no time in the preparation of this report did any of the interviewees suggest that delays at CBIF might result in dismissals. According to Page Croyder, the prosecutor at CBIF, “...The Central Booking Courtroom . . . has no relationship to the speedy trial problems.” No member of the working group felt that the rights of inmates were being violated by any delay in filing jury trial prayers. In fact, since July 1, 1999 all defendants in District Court cases have been able to file written requests for jury trials well before their trial date. However, to date, only one written request for a jury trial has been filed in Baltimore City. In fact, the members felt that a great deal was being done through existing efforts (such as QCR) and new efforts (such as State’s Attorney charging) to reduce any unwarranted incarceration.